

TITLE 83: PUBLIC UTILITIES  
CHAPTER I: ILLINOIS COMMERCE COMMISSION  
SUBCHAPTER b: PROVISIONS APPLICABLE TO  
MORE THAN ONE KIND OF UTILITY

PART 200  
RULES OF PRACTICE

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AUTHORITY: Implementing and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/10-101], Section 18c-1202 of the Illinois Commercial Transportation Law [625 ILCS 5/18c-1202], Section 18a-200 of the Illinois Commercial Relocation of Trespassing Vehicles Law [625 ILCS 5/18a-200], and Section 10 of the Electric Supplier Act [220 ILCS 30/10], and Section 25-101 of the Electronic Commerce Security Act [5 ILCS 175/25-101].

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#### SUBPART A: GENERAL PROVISIONS

Section 200.40 Definitions

Unless otherwise defined, the following terms as used in this Part shall have the following meanings:

"Commission" means the Illinois Commerce Commission.

"Commissioner" means a member of the Commission.

"Complainant" means a person who complains to the Commission by formal written complaint of any acts or things done or omitted to be done in violation, or claimed to be in violation, of the jurisdictional acts or of any order or rule of the Commission.

"Contested case" means any *proceeding, not including rate making, rule-making, quasi-legislative, informational or similar proceedings, where individual legal rights, duties or privileges of a party are required by law to be determined by the Commission after an opportunity for a hearing.* (~~Ill. Rev. Stat. 1991, ch. 127, par. 1001-30.~~)[5 ILCS 100/1-30]. With respect to proceedings under the Public Utilities Act, however, *complaint cases initiated pursuant to any section of that Act, investigative proceedings and ratemaking cases shall be considered "contested cases"* (~~Ill. Rev. Stat. 1985, ch. 111 2/3, par. 10-101~~) [220 ILCS 5/10-101].

"Electronic" includes electrical, digital, magnetic, optical, electromagnetic, or any other form of technology that entails capabilities similar to these technologies. [220 ILCS 5/3-122]

"Electronic document" means a pleading or a document transmitted by electronic means to the Commission with an electronic signature attached.

"Electronic record" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another. [5 ILCS 175/5-105]

"Electronic signature" means a signature in electronic form issued by the Commission pursuant to Section 200.1020 and consisting of a user I.D. and password attached to or logically associated with an electronic document.

"E-mail address" means a destination, commonly expressed as a string of characters, to which electronic mail may be sent or delivered. [815 ILCS 511/5]

"Hearing Examiner" means an employee of the Commission, or a Commissioner, designated by the Commission to conduct hearings and take evidence, who shall have additional powers as are provided by the Elec-

~~tric Supplier Act (Ill. Rev. Stat. 1985, ch. 111 2/3, par. 401 et seq.) [220 ILCS 30], the Illinois Commercial Relocation of Trespassing Motor Vehicles Law (Ill. Rev. Stat. 1985, ch. 95 1/2, par. 18a-100 et seq.) [625 ILCS 5/18a-100 et seq.], the Illinois Commercial Transportation Law (ICTL) (Ill. Rev. Stat. 1985, ch. 95 1/2, par. 18c-1101 et seq.) [625 ILCS 5/18c-1101 et seq.], the Public Utilities Act [220 ILCS 5] and the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, par. 1001-1 et seq.) [5 ILCS 100/1-1 et seq.].~~

~~"ICTL" means the Illinois Commercial Transportation Law (Ill. Rev. Stat. 1985, ch. 95 1/2, par. 18c-1101 et seq.).~~

"Intervenor" means a person who, upon written petition, is permitted to intervene in any proceeding before the Commission; provided that, in the case of any inquiry, investigation or hearing under the Public Utilities Act on any matter relating to rates or other charges or services within any city, such city may become a party to the proceeding and an intervenor by filing with the Commission a written appearance of its attorney or authorized representative.

"License." *A license includes the whole or part of any permit, certificate, approval, registration or similar type of permission required by law.* ~~(Ill. Rev. Stat. 1991, ch. 127, par. 1001-35.) [5 ILCS 100/1-35].~~

"Licensing Proceeding" means the Commission *process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal or amendment of a license, when required by law to be preceded by notice and opportunity for hearing* ~~(Ill. Rev. Stat. 1991, ch. 127, pars. 1001-40 and 1010-65) [5 ILCS 100/1-40 and 10-65].~~

"Non-party participant" means a person who either through testimony or a statement comments on any matter pending before the Commission. A non-party participant is not an "Intervenor" and does not have the rights of an Intervenor. A person need not file a petition to become a non-party participant but must comply with those procedures established by the Hearing Examiner.

"Party" means any person who initiates a Commission proceeding by filing an application, complaint or petition with the Commission, or who is named as a respondent, or who is allowed by the Commission or by statute to intervene in a proceeding. Such a party to a proceeding before the Commission may be an applicant, complainant, intervenor, petitioner or respondent. Staff witnesses are not parties but shall have the specific rights and duties enumerated in this Part.

"Person" means any individual, partnership, corporation, governmental

body or unincorporated association.

"Petitioner" or "Applicant" means a party who by written petition or application applies for or seeks relief under any provisions of the jurisdictional acts or any order or rule of the Commission and who is not otherwise designated in this Section.

"Pleading" means any application, complaint, motion, petition or answer filed in writing with the Commission in a formal proceeding.

"Public Utilities Act" means ~~the~~ The Public Utilities Act (~~Ill. Rev. Stat. 1985, ch. 111 2/3, par. 1-101 et seq.~~) [220 ILCS 5].

"Respondent" means a party against whom a complaint or petition is filed, or a party who, by reason of interest in the subject matter of a petition or application or the relief sought therein, is made a respondent, or a party to whom an order is directed by the Commission initiating a proceeding, including public utilities, telecommunications carriers and carriers under the ICTL which have filed tariff schedules that are suspended for investigation by the Commission.

"Staff" or "Commission Staff" means individuals employed by the Commission. For purposes of this Part, a Hearing Examiner is not considered a member of the Commission Staff.

"Staff witness" means a member of the Commission staff, excluding counsel, who testifies or enters an appearance in a particular proceeding before the Commission. Except for staff witnesses, this definition shall not limit the utilization of Commission staff as technical advisors to the Hearing Examiner or Commission.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 200.60 Open Meetings

- a) The Commission shall comply with the provisions of the Open Meetings Act [5 ILCS 120].
- b) Emergency meetings may be called by the Chairman or a majority of the Commission. Nothing in this Part shall prohibit the Commission from conducting meetings partially or wholly by means of telecommunications.
- c) The agenda for each regular meeting shall be posted at the Commission's principal office in Springfield, in an area easily accessible to the public, at the earliest practicable date but in no event less than 48 hours prior to the scheduled meeting. Whenever practicable, similar posting of the agenda

shall be made in the Commission's offices in Chicago and on the Commission's Web site (<http://www.icc.state.il.us>). A supplemental agenda of matters added subsequent to the initial agenda shall be posted when practicable. Agendas for regular meetings are for information only. Inclusion of an item on the agenda shall not require the Commission to consider it, and absence of an item from the agenda shall not preclude the Commission from considering or acting upon it. Notices and agendas may be obtained from the Chief Clerk's office in Springfield and Chicago.

- d) Participation in meetings is limited to Commissioners, Hearing Examiners, and Commission staff other than staff witnesses. Others may participate in Commission meetings on invitation of the Commission except where precluded by Section 200.710. The Commission shall take those actions necessary to permit its deliberations to be conducted in an orderly manner.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 200.70 Communications to the Commission

- a) All formal written communications and documents to be filed with or submitted to the Commission shall be addressed to: The Chief Clerk, Illinois Commerce Commission, 527 East Capitol Avenue, Springfield, Illinois ~~62701~~ ~~62706~~. Petitions, complaints and other filings that initiate a proceeding or petitions for interlocutory review shall be deemed to be officially filed or submitted only when received at the principal office of the Commission. The Chief Clerk is the official custodian of all Commission records. Unless the Public Utilities Act or other applicable statute specifically provides otherwise, or the Hearing Examiner specifically provides otherwise in the interest of a fair hearing, all other formal written communications and documents shall be deemed officially filed or submitted either when received at the principal office of the Commission or:
- 1) if transmitted through the United States mail, shall be deemed filed with or received by the Commission on the date shown by the post office cancellation mark stamped upon the envelope or other wrapper containing it. If transmitted by a private express courier service, shall be deemed filed with or received by the Commission upon delivery to the courier service;
  - 2) if mailed or deposited with a private express courier service but not received by the Commission or if received but without a cancellation mark or with the cancellation mark illegible or erroneous, shall be deemed filed with or received by the Commission on the date it was sent or deposited, provided a Proof of Filing by certificate of attorney, acknowledgment of receipt, or affidavit is provided to the

Commission showing that the writing was deposited, properly addressed, in the United States mail or with a private express courier service on or before the date on which it was required or authorized to be filed. In cases in which the writing was mailed or deposited with a private express courier service but not received, the sender must also file with the Commission a duplicate writing, within 10 days after notification is given to the person claiming to have sent the writing, of nonreceipt of the writing;

- 3) if a writing is sent by United States registered mail, certified mail or certificate of mailing, a record authenticated by the United States Postal Service of such registration, certification or certificate shall be considered competent evidence that the writing was mailed. The date of registration, certification or certificate shall be deemed the postmarked date.
- b) In an emergency, upon affidavit specifying the emergency and affirming that no person will be prejudiced, the Chief Clerk or his/her designated representative shall authorize filing in the Chicago office of the Commission.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 200.80 Computation of Time

*The time within which an act is to be done as provided in any rule or order promulgated by the Commission shall be computed by excluding the first day and including the last, unless the last day is Saturday or Sunday or is a holiday as defined or fixed in any statute now or hereafter in force in this State, and then it shall also be excluded. If the day succeeding such Saturday, Sunday or holiday is also a holiday or a Saturday or Sunday then such succeeding day shall also be excluded. [5 ILCS 70/1.11] (Ill. Rev. Stat. 1983, ch.1, par. 1012).*

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 200.90 Appearances

- a) Any party may appear by an attorney at law authorized to practice in the State of Illinois; attorneys admitted to practice in states other than Illinois may appear and be heard upon special leave of the Hearing Examiner in particular cases. In determining whether to grant such leave, the Hearing Examiner shall consider, in addition to the goals set forth in Section 200.25, whether the state in which the attorney is admitted to practice grants leave to Illinois attorneys in similar situations.
- b) A natural person may appear in his or her own behalf.

- c) A corporation or association may appear by any bona fide officer, employee or representative. Only persons admitted to practice as attorneys and counselors at law shall represent others in proceedings before this Commission in any matter involving the exercise of legal skill or knowledge.
- d) When staff witnesses are represented by an attorney, their appearance shall be made by their attorney or attorneys. All Commission staff witnesses not represented by counsel, who speak at any hearing, shall enter an appearance.
- e) All persons appearing in proceedings before the Commission shall conform to the standards of conduct of attorneys before the courts of Illinois. These standards are set forth in the Illinois Rules of Professional Conduct Code of Professional Responsibility [ILCS S Ct Rules of Prof. Conduct, Art. VIII] (Ill. Rev. Stat. 1985, ch. 110A, Article VIII). If any person does not conform to such standards, the Hearing Examiner may decline to permit such person to appear in any proceeding.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### SUBPART B: FORM, FILING AND SERVICE OF PLEADINGS

##### Section 200.100 Contents of Pleadings and Documents

All pleadings and documents in proceedings before the Commission to which a docket number has been assigned shall prominently display such docket number. Pleadings and documents initiating a new proceeding shall leave a space for the docket number. All pleadings shall also include the following information:

- a) The full name, address, facsimile number, e-mail address, and telephone number of the person or the representative of the person filing the pleadings.
- b) A plain and concise statement of any facts upon which the pleadings are based.
- c) The specific relief sought, which may be in the alternative, including the statutory authority or rule and regulation upon which such relief is sought.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

##### Section 200.110 Forms of Pleadings and Documents

- a) All pleadings and documents filed with the Commission shall be typewrit-

~~ten or printed on paper cut or folded or capable of being printed on paper 8 1/2 inches by 11 inches typewritten or printed on paper cut or folded so that the size shall not exceed a width of 8-1/2 inches and a length of 11 inches and shall have inside margins of one inch not less than 1 inch wide.~~ All exhibits of a documentary character shall, whenever practical, conform to said requirements of size and margin. ~~The~~ If typewritten, the impression shall be on one side of the paper only and shall be double spaced; footnotes and quotations may be single spaced and indented.

- b) All pleadings or other documents shall be composed in either Arial or Times New Roman font and shall be at least 12-point or larger. Persons filing a formal complaint pursuant to Section 200.170 using the complaint form provided by the Commission may complete the form in handwriting.
- c) Reproductions may be by any process, providing that all copies are clear and permanently legible.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 200.120 Copies of Pleadings

a) For dockets initiated before January 1, 2000

- 1a) Pleadings shall be filed with the Chief Clerk in one original and two copies, unless otherwise specified in this Part;-
- 2b) Initial pleadings in proceedings under the Public Utilities Act shall be filed with the Chief Clerk in one original and three copies.

b) For dockets initiated after January 1, 2000, only one original shall be filed.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 200.130 Signature and Verification

The original of every pleading filed with the Commission shall be signed by the party filing the same or by an officer, agent or attorney therefor, provided that petitions filed under Section 7-102 of the Public Utilities Act [~~220 ILCS 5/7-102~~] (~~Ill. Rev. Stat. 1985, ch. 111-2/3, par. 7-102~~) shall be signed by the person(s) specified in that ~~Section~~ section. The contents of all formal complaints, petitions, applications, petitions to intervene, supplemental formal complaints and supplemental petitions shall be verified by the filing party before a notary public.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 200.150 Service

- a) Formal complaints will be served by the Commission only.
- b) Petitions, applications, answers, intervening petitions, supplemental complaints and petitions, amendments to pleadings, written motions, responses, replies, notices, suggested findings of fact and conclusions of law, exceptions to Hearing Examiners' proposed orders, briefs, drafts or suggested forms of order, applications for further hearing, petitions for re-hearing, and similar documents shall be filed with the Chief Clerk of the Commission and shall be served by the person filing same upon all parties to the proceeding and upon Staff and the Hearing Examiner, if any, and, when filed, shall be accompanied by proof of service upon all parties. In addition, any person filing a petition under Section 8-406 of the Public Utilities Act [220 ILCS 5/8-406] for a certificate of public convenience and necessity to serve as a water or sewer public utility shall serve a written copy of the petition on each municipality which is located partly or wholly within the area proposed to be certificated, or whose corporate boundary lies within 1 1/2 miles of such area.
- c) Service of paper documents. Except as otherwise provided in this Subpart or by the Commission or the Hearing Examiner, service of paper documents shall be made by delivering in person or by depositing in the United States mail, properly addressed with first class postage prepaid, or by depositing with a private express courier service, properly addressed with charges prepaid or payment arrangements made, one copy to each person entitled thereto. Service by mail is effective upon mailing; service by private express courier service is effective upon delivery to the private express courier service. Service of petitions for interlocutory review shall be effective upon receipt by the party served. When staff witnesses or any party or parties have appeared by an attorney, service upon the attorney shall be deemed service upon such persons. Notices under the ICTL shall be served as provided in Sections 18c-1801 and 18c-1802 of that statute [625 ILCS 5/18c-1801 and 18c-1802]. Service is effective on a public utility, telecommunications carrier, carrier under the ICTL or other entity regulated by the Commission, if mailed to the last address on file with the Commission. Except as otherwise provided by the Commission or the Hearing Examiner, whenever Staff or a party has the right or is required to do some act within a prescribed period after the service of a notice or other document upon Staff or the party, and the notice or other document is served upon Staff or the party by mail, four days shall be added to the prescribed period.
- d) Proof of service of any paper document shall be by certificate of attorney, acknowledgement of receipt, or affidavit, except that proof of service on the Commission is made pursuant to Section 200.70.

- e) In any proceeding involving more than four parties, the Chief Clerk shall prepare and disseminate to all parties a service list showing the name and address and any e-mail address of each person entitled to service. Parties shall be required to update their service lists to insure the inclusion of all parties during the course of the proceeding. Updated service lists may be obtained from the Chief Clerk's office.
- f) In any application, petition, or complaint that initiates a "Contested Case" or a "Licensing Proceeding" as defined in Section 200.40, ~~the Commission shall serve notice the applicant, petitioner or complainant shall provide, at the time of filing a petition, application or complaint, notice in a form prescribed by the Commission. The notice shall provide:~~
- ~~1) A statement of the time, place, and nature of the hearing;~~
  - ~~2) A statement of the legal authority and jurisdiction under which the hearing is to be held;~~
  - ~~3) A reference to the particular Sections of the substantive and procedural statutes and rules involved;~~
  - ~~4) Except where a more detailed statement is otherwise provided for by law, a short and plain statement of the matters asserted, the consequences of a failure to respond, and the official file or other reference number;~~
  - ~~5) The names and mailing addresses of the Hearing Examiner, all parties, and all other persons to whom the Commission gives notice of the hearing unless otherwise confidential by law. [5 ILCS 100/10-25(a)]; and~~
  - ~~6) A copy of the complaint, in proceedings initiated under Section 10-108 of the Public Utilities Act [220 ILCS 5/10-108]~~
- ~~1) A statement of the legal authority and jurisdiction under which the hearing is to be held;~~
  - ~~2) A reference to the Section of the statute or rule involved;~~
  - ~~3) A plain and concise statement of the matters asserted; and~~
  - ~~4) A space for the time and location of a hearing scheduled in the proceeding. [5 ILCS 100/10-25(a)];~~

- 5) ~~A copy of the complaint, in proceedings initiated under Section 10-108 of the Public Utilities Act [220 ILCS 5/10-108].~~
- g) The Commission shall serve the notice provided by subsection (f) by personal delivery or registered or certified mail. Notice of any additional hearings or other notices mailed by the Commission shall be by regular United States mail or as otherwise provided by the Hearing Examiner
- h) A person filing an application under Section 8-406 of the Public Utilities Act, as amended, for a Certificate of Public Convenience and Necessity to construct facilities upon or across privately owned tracts of land, or filing under Section 8-503 of that Act [220 ILCS 5/8-503], shall include with attach to such application when filed with the Commission a list containing the name and address of each owner of record of such land as disclosed by the records of the tax collector of the county wherein such land is located, as of not more than ~~thirty~~ (30) days prior to the filing of such application. The Commission shall notify such owners of record of the time and place scheduled for the initial hearing upon such application. The foregoing provisions for notice to owners of record shall not be deemed jurisdictional and the omission of the name and address of an owner of record from such list or lack of notice shall in no way invalidate a subsequent order of the Commission relating to said application.
- i) ~~When~~ ~~Where~~ a person files an application under Section 8-503 or 8-406 of the Public Utilities Act, the requirements of subsection (h) Section 200.150(h) above shall apply only if such application requests a certificate of authority to construct particular facilities at specified locations and shall apply only with respect to such construction.
- j) ~~When~~ ~~Where~~ a person files an application under both Section 8-406 of the Public Utilities Act and under the Gas Storage Act [220 ILCS 15], the utility's compliance with the notice requirements of the Gas Storage Act will be deemed to be in compliance with the requirements set forth in subsection (h) Section 200.150(h) above.
- k) Persons filing applications under the ICTL ~~that~~ ~~which~~ are subject to the service and notice requirements of Section 18c-4201 of that Law [625 ILCS 5/18c-4201] shall comply with the requirements of that Section and the rules of the Commission issued thereunder.
- l) Persons filing applications under the Illinois Commercial Relocation of Trespassing Vehicles Law who are subject to the service and notice requirement of Section 18a-400(c) of that Law [625 ILCS 5/18a-400(c)] shall comply with the requirements of that Section and the rules of the Commission issued thereunder.

- m) Persons subject to the Electric Supplier Act [220 ILCS 30] shall comply with any and all service and notice requirements under that Act.
- n) The Commission or the Hearing Examiner may require notice in addition to that set forth in this Section.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 200.170 Formal Complaints

A formal complaint shall be in writing and verified, and an original ~~and two copies (three copies in complaints filed under the Public Utilities Act)~~ of the complaint and notice pursuant to ~~Section 200.150(f)~~ shall be filed with the Commission, together with as many additional copies as there are parties complained against, and shall set forth the following:

- a) The name, address, facsimile number, e-mail address, and telephone number of each complainant and the complainant's attorney, if any.
- b) The name and address of each respondent.
- c) A plain and concise statement of the nature of each complainant's interest and the acts or things done or omitted to be done in violation, or claimed to be in violation, of any statute, or of any order or rule of the Commission.
- d) If the complainant alleges a violation of 83 Ill. Adm. Code 280 or 735, the complaint shall contain a Statement of Compliance with 83 Ill. Adm. Code 280.170 or 83 Ill. Adm. Code 735.200, whichever is applicable.
- e) The particular relief desired.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 200.180 Answers

- a) Whenever the Hearing Examiner issues a ruling that a complaint provides a clear statement on the subject matter, scope of complaint, and basis thereof, answers to formal complaints shall be filed with the Commission within 21 days after the date on which the Commission serves notice of the Hearing Examiner's ruling upon the respondent, unless otherwise ordered. If any respondent fails to file an answer, when required under this Section, allegations of fact as to such respondent will be considered admitted. If respondent does not file an answer when no filing requirement exists, issue as to such respondent will be considered joined. Answers shall contain an explicit admission or denial of each allegation of the

pleading to which they relate and a concise statement of the nature of any defense.

- b) Answers to formal applications and petitions shall be filed with the Commission within 21 days after the date on which such applications or petitions are served upon the respondent, unless otherwise ordered. If any respondent fails to file an answer, issues as to such respondent will be considered joined. Answers shall contain an explicit admission or denial of each allegation of the pleading to which they relate and a concise statement of the nature of the defense.
- c) The original of an answer to a verified pleading shall be verified.
- d) Answers to petitions for intervention and to amended or supplemental pleadings need not be made unless the party so elects; and, in case answers are not made, the issue will be considered joined. Such answers, if made, shall conform to the requirements of subsections (b) and (c) of this Section, however, such answers shall be filed within 14 days, unless otherwise prescribed by the Hearing Examiner.

~~e) If a respondent satisfies a formal complaint during the pendency of the proceeding, a stipulation signed by all parties or those parties for whom the complaint was satisfied requesting the dismissal of the complaint shall be filed with the Commission. If made at a hearing, such stipulation may be oral.~~

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 200.185 Satisfaction of Complaint

If a respondent satisfies a formal complaint during the pendency of the proceeding, a stipulation signed by all parties or those parties for whom the complaint was satisfied requesting the dismissal of the complaint shall be filed with the Commission. If made at a hearing, such stipulation may be oral.

(Source: Added at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 200.200 Intervention

- a) Petitions to intervene shall contain:
  - 1) The name, address, ~~facsimile number, e-mail address,~~ and telephone number of the petitioner seeking leave to intervene;
  - 2) A plain and concise statement of the nature of such petitioner's interest;

- 3) A prayer for leave to intervene and be treated as a party to the proceeding;
  - 4) If affirmative relief is sought, specific prayers for such relief, which may be in the alternative.
- b) While a petition for leave to intervene is pending, the Hearing Examiner, in his or her discretion, may permit the petitioner to participate in the proceeding.
  - c) Petitions to intervene shall be granted or denied by the Hearing Examiner, subject to Section 200.520.
  - d) In order to promote efficiency, the Hearing Examiner may require parties to state whether they will be active or not active in the proceeding. If a party fails to respond in the manner designated by the Hearing Examiner within 14 days, the party shall be deemed to be a non-active party. Active parties shall not be required to serve non-active parties with copies of testimony, data requests, pleadings and briefs. However, non-active parties shall be entitled to receive notices and orders served by the Commission. A party may change its designation at any time in the proceeding by filing a notice with the Chief Clerk and serving all parties. If a non-active party has changed its status to active, upon receipt of the notice from the party, all other active parties shall serve that party with all subsequently filed testimony, pleadings and briefs. A party's change in status shall not serve as the basis for delay or a modification of the procedural schedule in the case.
  - e) Except for good cause shown, an intervenor shall accept the status of the record as the same exists at the time of the beginning of that person's intervention. Subject to Section 200.850, any intervenor shall be allowed to comment in briefs and oral arguments on any matter addressed in the proceeding, whether before or after his intervention; and such intervenor shall be bound by rulings and orders theretofore entered.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### SUBPART C: PREHEARING PROCEDURE AND DISCOVERY

##### Section 200.300 Prehearing Conferences

- a) The Hearing Examiner, on his or her own motion, upon motion by any party or staff witness, or when directed by the Commission, shall with reasonable written notice request all parties and staff witnesses to attend a prehearing conference when it appears that any of the goals set forth in

subsections (a)(1) through (a)(7) of this Section can be attained. Such a conference shall be held for the purpose of formulating issues and considering:

- 1) Simplification of issues;
  - 2) Amendments to the pleadings;
  - 3) The development of docket-specific discovery schedules and procedures to facilitate the prompt and efficient resolution of the proceeding;
  - 4) The possibility of obtaining admissions of fact and of the genuineness of documents which will avoid unnecessary proof;
  - 5) Limitations on the number of witnesses;
  - 6) The procedure at the hearing; and
  - 7) Such other matters as may aid in the simplification of the evidence and disposition of the proceeding.
- b) Except where the Illinois Administrative Procedure Act [5 ILCS 100] provides otherwise, the Hearing Examiner may on his or her own motion, on motion of any party or staff witness, or when directed by the Commission, with written notice to all parties and Staff witnesses, initiate an informal discussion whenever it appears that a mechanism less formal than a hearing might be useful in resolving any issue in a proceeding.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 200.360 Depositions and Other Discovery Procedures

- a) *The Commission, any Commissioner, the Hearing Examiner or any party may, in any investigation or hearing before the Commission, cause the deposition of witnesses residing within or without Illinois to be taken in the manner prescribed by law for like depositions in civil actions in the courts of Illinois and to that end may compel the attendance of witnesses and the production of papers, books, accounts and documents. [220 ILCS 5/10-106] (Ill. Rev. Stat. 1985, ch. 111 2/3, par. 10-106). Except under special circumstances and for good cause shown, no deposition may be taken except upon 14 days prior notice to all parties and staff witnesses.*
- b) Payment of witness and mileage fees shall be as provided by Section 10-106 of the Public Utilities Act. [220 ILCS 5/10-106] (Ill. Rev. Stat. 1985, ch. 111 2/3, par. 10-106).

- c) In addition to depositions, and subject to the provisions of this Part, any party may utilize written interrogatories to other parties, requests for discovery or inspection of documents or property and other discovery tools commonly utilized in civil actions in the Circuit Courts of the State of Illinois in the manner contemplated by the Code of Civil Procedure [735 ILCS 5] (Ill. Rev. Stat. 1985, ch. 110, par. 1-101 et seq.) and the Rules of the Supreme Court of Illinois [ILCS S. Ct. Rules] (Ill. Rev. Stat. 1985, ch. 110A, par. 1 et seq.).

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 200.430 Protective Orders

- a) At any time during the pendency of a proceeding, the Commission or the Hearing Examiner may, on the motion of any person, enter an order to protect the confidential, proprietary or trade secret nature of any data, information or studies.
- b) A person filing a motion for a protective order shall specify the proposed expiration date for the proprietary status of the data, information or studies. The proposed expiration date shall be no more than five years from the date of submission. If no date is specified, the proposed expiration date for the proprietary status of the any data, information or studies shall be two years from the date of submission.
- c) An electronic document submitted and marked as proprietary shall be treated as a request for a protective order under this Section.
- d) A public redacted version of each document submitted pursuant to this Section must also be submitted with the proprietary version.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### SUBPART D: HEARING PROCEDURE

#### Section 200.540 Recording Appearances at Hearings

Parties and staff witnesses shall enter their appearances at the beginning of a hearing by giving their names, addresses, telephone numbers, any e-mail address, and whom they represent in writing to the reporter who will include the same in the record of hearing. The Hearing Examiner conducting the hearing may, in addition, require appearances to be stated orally. Non-party participants shall be identified in a manner prescribed by the Hearing Examiner.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 200.610 Evidence

- a) *In all proceedings subject to this Part, irrelevant, immaterial or unduly repetitious evidence shall be excluded. (~~Ill. Rev. Stat. 1991, ch. 127, par. 1010-40~~)[5 ILCS 100/10-40].*
- b) This subsection applies to all proceedings except those under the ICTL. *In contested cases, and licensing proceedings, the rules of evidence and privilege applied in civil cases in the circuit courts of the State of Illinois shall be followed. However, evidence not admissible under such rules may be admitted if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. (~~Ill. Rev. Stat. 1991, ch. 127, par. 1010-40~~)[5 ILCS 100/10-40].* Objections must be made at hearing to preserve them on appeal. Evidence may be received orally or in writing.
- c) This subsection applies to proceedings under the ICTL. *The rules of evidence which apply in civil cases before the circuit courts of this State shall, except as otherwise provided in Section 18c-2104 of the ICTL, apply to proceedings before the Commission. Evidence not admissible under the rules of evidence applicable in civil courts may be admitted if it is of a type commonly relied upon by persons in the conduct of their affairs. Objections must be made at hearing to preserve them on appeal. Evidence may be received orally or in writing [625 ILCS 5/18c-2104] (~~Ill. Rev. Stat. 1985, ch. 95 1/2, par. 18c-2104~~).*

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 200.625 Examination of Adverse Party or Agent

Adverse parties and their employees and agents may be called upon to testify in the manner contemplated by Section 2-1102 of the Code of Civil Procedure [735 ILCS 5/2-1102] (~~Ill. Rev. Stat. 1983, ch. 110, par. 2-1102~~).

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 200.700 Record in Commission Proceedings

- a) *The record in any proceeding before the Commission shall include:*
- 1) *all pleadings, (including all notices and responses thereto), motions and rulings;*
  - 2) *evidence received;*
  - 3) *a statement of matters officially noticed;*

- 4) *offers of proof, objections and rulings thereon;*
  - 5) *proposed findings and exceptions;*
  - 6) *any decision, opinion or report by the Hearing Examiner, except in cases ~~that~~ which are not contested cases or licensing proceedings and which do not arise under the Public Utilities Act;*
  - 7) *all staff memoranda or data submitted to the Hearing Examiner or Commissioners in connection with their consideration of the case, except in cases ~~that~~ which are not contested cases or licensing proceedings and ~~that~~ which do not arise under the Public Utilities Act;*
  - 8) *any briefs, proposed orders and exceptions thereto which have been filed by the parties;*
  - 9) *orders and opinions of the Commission; and*
  - 10) *any communications prohibited by Section 200.710, but such communications shall not form the basis for any finding of fact. ~~[5 ILCS 100/10-35] (Ill. Rev. Stat. 1991, ch. 127, par. 1010-35).~~*
- b) Notwithstanding the provisions of subsection (a), no matter coming within attorney-client privilege shall be included in the record in a contested case or licensing proceeding.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 200.710 Ex Parte Communications

- a) Unless waived by written stipulation of the parties in the proceeding as provided by Section 10-70 of the Illinois Administrative Procedure Act ~~[5 ILCS 100/10-70] (Ill. Rev. Stat. 1991, ch. 127, par. 1010-70)~~, once notice of hearing has been given in a contested case or licensing proceeding, Commissioners, Commission employees and Hearing Examiners shall not communicate directly or indirectly with:
- 1) Any party to the proceeding on any issue in the proceeding; or
  - 2) A party's representative on any issue in the proceeding; or
  - 3) Any other person concerning an issue of fact in the proceeding;

without notice and opportunity for all parties to participate.

- b) The following communications are not subject to subsection (a) of this Section:
- 1) *Communications between Commission employees who are engaged in investigatory, prosecutorial or advocacy functions and other parties to the proceeding, provided that such Commission employees are still prohibited from communicating on an ex parte bases, as designated in subsection (a), directly or indirectly, with members of the Commission, any Hearing Examiner in the proceeding, or any Commission employee who is or may reasonably be expected to be involved in the decisional process of the proceeding (this language is derived from Section 10-103 of the Public Utilities Act [220 ILCS 5/10-103] (Ill. Rev. Stat. 1985, ch. 111 2/3, par. 10-103) and applies only to proceedings under that Act);*
  - 2) *Communications between a Commissioner and other Commissioners, and between a Commissioner or Hearing Examiner and one or more personal assistants [5 ILCS 100/10-60] (Ill. Rev. Stat. 1991, ch. 127, par. 1010-60);*
- c) *Any Commissioner, Hearing Examiner, or other Commission employee who is or may reasonably be expected to be involved in the decisional process of a proceeding, who receives, or who makes or knowingly causes to be made, a communication prohibited by Section 10-60 of the Illinois Administrative Procedure Act as modified by Section 10-103 of the Public Utilities Act [220 ILCS 5/10-103] shall place on the public record of the proceeding:*

1) *All such written communications;*

2) *Memoranda stating the substance of all such oral communications;*  
*and*

3) *All written responses and memoranda stating the substance of all oral responses to the materials described in subsections (c)(1) and (2). [220 ILCS 5/10-103]*

~~When a Commissioner, a hearing examiner, a Commission employee or a party becomes aware that he or she has received or has made a prohibited communication, the communication shall be disclosed by him, her or them by placing in the record~~

~~1) *any and all such written communications;*~~

- 2) ~~a memorandum stating the substance of any and all such oral communications; and~~
- 3) ~~any and all written responses and memoranda stating the substance of any and all oral responses to the materials described in subsections (c)(1) and (c)(2).~~
- d) The material specified in subsection (c) shall be disclosed to the parties of record by
- 1) service on the parties at the next hearing or
  - 2) if no hearing is scheduled within the next seven days, service by mail on all parties of record.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### SUBPART E: POST-HEARING PROCEDURE

##### Section 200.840 Filing of Briefs

- a) ~~For proceedings initiated prior to January 1, 2000, an~~ An original and ~~eight~~ 14 copies of all briefs shall be filed with the Commission.
- b) ~~For proceedings initiated after January 1, 2000, an original of the brief shall be filed with the Commission.~~

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

##### Section 200.860 Commission Order

Following receipt of the proposed order of the Hearing Examiner and any briefs of the parties, and following oral argument, if any, the Commission shall make its decision and shall serve a copy of its order upon all parties in the manner provided by Section 10-112 of the Public Utilities Act [~~220 ILCS 5/10-112~~] (~~Ill. Rev. Stat. 1985, ch. 111-2/3, par. 10-112~~).

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

##### Section 200.880 Rehearing

- a) After issuance of an order on the merits by the Commission, a party may file an application for rehearing. The application shall state the reasons therefore and shall contain a brief statement of proposed additional evidence, if any, and an explanation why such evidence was not previously

adduced. The application shall be filed within 30 days after service of the order on the party.

- 1) ~~For proceedings initiated prior to January 1, 2000 an~~ An original and ~~eight~~ 11 copies of the application shall be filed with the Commission;:-
  - 2) ~~For proceedings initiated after January 1, 2000, an original of the application shall be filed with the Commission.~~
- b) Applications for rehearing must state with specificity the issues for which rehearing is sought. Incorporation of arguments made in prior pleadings and briefs must be specific as to document and page.
  - c) If an application for rehearing alleges new facts, then the application must be filed with a verification. A verification need not be filed with an application for rehearing if the application does not allege new facts.
  - d) No appeal shall be allowed from any order or decision of the Commission unless and until an application for rehearing thereof shall first have been filed and finally disposed of by the Commission. The Commission shall grant or deny such application in whole or in part within 20 days from the date of receipt by the Commission.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### SUBPART F: ELECTRONIC FILING

##### Section 200.1000 Overview of Electronic Filing

One of the stated purposes of the Electronic Commerce Security Act is "[t]o facilitate electronic filing of documents with State and local government agencies, and promote efficient delivery of government services by means of reliable electronic records." [5 ILCS 175/1-105(3)] The Electronic Commerce Security Act authorizes State agencies to send and receive electronic records and electronic signatures. In addition, the Commission has the authority over its process and proceedings pursuant to Section 10-101 of the Public Utilities Act [220 ILCS 5/10-101]. To that end, the Commission is committed to facilitating the filing, distributing, and accessing of documents electronically, subject to the Commission's Rules of Practice. The Commission has created an electronic filing system known as "e-Docket". e-Docket is a Web based program that allows electronic filing, management, and access to electronic records that make up case files. Any person may file a document in an electronic format. However, nothing in this Part should be construed to require any person to file any document in an electronic format.

(Source: Added at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 200.1010 Acceptable Formats

- a) All electronic documents submitted to the Commission via e-Docket shall be in one of the following formats:
- 1) Microsoft Word for Windows, version 6.0 and greater;
  - 2) Corel WordPerfect for Windows, version 6.0 and greater;
  - 3) Microsoft Excel for Windows, version 4.0 and greater;
  - 4) Lotus 1-2-3 for Windows, version 4.0 and greater;
  - 5) ASCII Text;
  - 6) Adobe Acrobat 2.0 and greater.
- b) All e-Docket electronic records will be stored by the Commission in Adobe Acrobat Portable Document Format (PDF). Electronic documents not submitted in the PDF format will be converted to PDF by the Commission.
- c) The Commission encourages persons to submit electronic documents in PDF.

(Source: Added at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 200.1020 e-Docket Accounts

- a) Each person seeking to file electronic documents must have an active e-Docket account.
- b) The application for an e-Docket account is available on e-Docket on the Commission's Web site or can be obtained by calling or e-mailing the e-Docket help desk.
- c) The e-Docket application requires the following information:
- 1) First name and last name;
  - 2) Primary mailing address and phone number;
  - 3) Preferred user name;
  - 4) Password;
  - 5) Challenge question and answer; and

- 6) Notarized signature.
- d) Applications must be hand-delivered or mailed to the e-Docket help desk.
- e) The user is responsible for keeping confidential the user I.D. and password. A User I.D. must be at least four characters in length, and must be unique. Passwords must be at least five characters in length. Periodically passwords will expire and users will be given advance notice and requested to enter a new password. The challenge question and answer will enable e-Docket to recover a password for a user who has forgotten his or her password.
- f) Because of the unique user I.D. and password, an electronic document can be traced to a specific individual as if it were signed. This shall serve as an electronic signature on such filings.

(Source: Added at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 200.1030 Control Processes

- a) e-Docket allows only users with I.D. and passwords to file electronic documents.
- b) Only members of the service list for a particular docketed case are allowed to file electronic documents in that case. This does not prohibit the electronic filing of petitions to intervene in a case in which the person filing the petition is not yet a member of the service list.
- c) Filings are scanned for computer viruses prior to being uploaded into the e-Docket system and will be rejected if the filing is infected. The submitter of such an electronic document will be notified of the rejection.
- d) The Web browser must be set to accept cookies in order for users to submit electronic documents. Cookies identify users and instruct the server to send a customized version of the requested Web page to the user. Cookies also submit account information for the user.
- e) e-Docket logs every filing with the user I.D., date, time, and file size information.

(Source: Added at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 200.1040 Submission of Electronic Documents

- a) Persons filing electronic documents shall receive a receipt with an identi-

fication number that shall be sent electronically. Documents that are required to be verified or that have an affidavit shall be deemed to be officially filed or received only when the person submitting the electronic document submits to the Commission the original verification page(s) accompanied by a printed copy of the electronic receipt for that document.

- b) The filing of an electronic document is effective upon acceptance of the complete document and any required original verification page(s) by the Chief Clerk of the Commission in one of the formats specified in Section 200.1010(a).
- c) For dockets initiated after January 1, 2000, the requirement for the filing of multiple copies of documents is satisfied by the filing of a complete electronic version of a document.

(Source: Added at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 200.1045 Electronic Documents Accepted by the Commission

All documents either initiating a docketed proceeding or filed in a docketed proceeding may be submitted to the Commission as electronic documents.

(Source: Added at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 200.1050 Service by Electronic Means

- a) Service by electronic means is allowed when agreed to by individual parties. Notwithstanding Section 200.150, any party required to serve a pleading or other document may serve copies of pleadings and other documents on other parties of record by electronic means in substitution of first class mail. Because of pagination and format concerns, the parties are encouraged to serve in PDF format. When serving by electronic means, service is deemed complete on the day of electronic transmission if transmitted prior to 5:00 p.m. on that day.
- b) If any party files a proprietary electronic document (See Section 200.430), that party must serve the proprietary electronic document on any other party of record that has the right to see such document through any means, such as a confidentiality agreement. The e-Docket system does not allow any person outside of the Commission to see or access proprietary electronic documents.

(Source: Added at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 200.1060 Electronic Documents and the Hearing Process

If any electronic document is offered and received at a hearing in a docketed proceeding, the official copy is the electronic document as filed and found in the e-Docket system. If a prefiled electronic document is submitted without alteration at hearing, the requirements of Section 200. 670 to offer multiple copies at hearing and to have such copies stamped are eliminated. If any prefiled electronic document is altered at hearing in any way, the sponsoring party must serve the complete altered electronic document on the Commission and the other parties of record within seven days of that hearing or, if applicable, within seven days of the end of a continuous, day-to day set of hearings, unless otherwise directed by the Hearing Examiner.

(Source: Added at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)